

## **Changes in Certificates of Discharge**

Increasingly, we see attorneys trying to use the certificate of discharge to determine legal issues such as dischargeability of debts; the validity and extent of liens; and to cancel judgments on state court judgment rolls. This is improper. The certificate is an administrative notice and was never intended to determine substantive legal rights.

The certificate question came up recently in the case of *In re Greene*, Case No. 02-51929 (May 28, 2003). There, Judge Whitley denied the debtors' request for such a certificate, because the certificate submitted attempted to hold the judgment debt dischargeable and to determine that it did not attach to a particular property of the debtors. This violates FRBP 7001 which requires an adversary proceeding to make such determinations. Effectively, *Greene* limits the use of certificates of discharge to providing record notice of a bankruptcy filing and discharge in other public registries.

The other judges in the District concur with the *Greene* decision. Consequently the Court is reworking its certificate of discharge form. The new form will only represent that: (1) the Debtor filed Chapter 7 in this district on a particular date; and (2) he or she received a discharge on another date.

As such, the old attorneys' affidavits have been rendered superfluous and will no longer be required.